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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,080	01/26/2004	James M. Pratt	112,764	8252

21002 7590 01/13/2006

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EXAMINER

SCHNEIDER, CRAIG M

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/764,080	Applicant(s) PRATT, JAMES M.	
	Examiner Craig M. Schneider	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "36" mentioned on page 3, line 7.

The drawings are objected to because the legend "Figure 1" must be removed from the drawing. When only one figure is submitted with an application, it is not given a figure number (37 CFR 1.84(u)(1)).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "multiple interconnected holding tanks" recited in both claim 4 and 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because with a single unnumbered figure, references to "Figure 1" must be changed to "the figure" or "the sole figure" to agree with the drawing change required above.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 13, the recitation "utilizing said water in said tank in said basement" is not definite. The examiner does not know if the applicant is referring to the water in the tank as being useable or if the water that is in the tank can be used inside the basement via a spigot located on the tank as discussed in the specification. If the latter is the case, then the drawings need to be corrected to reflect the claimed material.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hikari Kensetsu (JP 10-219759) in view of Klein (5,239,794).

Kensetsu discloses a water recycling system which shows the steps of accumulating water seepage in the sump area (2); providing water sensing means (7) to the sump area; sensing the water accumulation in the sump area with the water sensing means; providing a pump (8) in the sump area; activating the pump in the sump area by the sensing means; providing a holding tank (9) having a top and a bottom; pumping the accumulated water to the holding tank; storing the accumulated water in the holding tank; utilizing the water in the tank; and providing a first pump (12) at the bottom of the holding tank. Kensetsu discloses all the features of the claimed invention except that the system is in a building having an exterior wall and a basement having a sump area, the building experiencing water seepage into the basement comprising the steps of: providing a usage pipe extending from the first pump through the exterior wall to the exterior of the building; pumping the water in the holding tank by the first pump through the usage pipe extending through the wall to the exterior of the building; and utilizing the pumped water at the exterior of the building. Klein discloses that the water sump is located in the basement as seen in Figure 1 (col. 1, line 51 through col. 2, lines 5),

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which is fed by rainwater from gutters like Kensetsu as well as by water passing through the basement wall from the ground source (65)(col. 4, lines 60-69).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the sump of Kensetsu in the basement (lowest point) of the building as disclosed by Klein, in order to have a gravity fed collection point for the rainwater and seepage.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to move the sump and tank inside a building, in order to reduce the risk of environmental contamination, freezing, and tampering.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a usage pipe extending from the first pump through an exterior wall to the exterior of the building, in order to be able to water plants or wash a car (paragraph 9, lines 2-4).

Regarding claim 6, Kensetsu and Klein disclose all the features of the claimed invention except that a manually operated switch is disposed on the exterior of the building for activating the first pump.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a switch disposed on the exterior wall near the spigot, in order to provide immediate usage of the stored water supply in the tank and to save electricity and pump wear when water is not needed.

Allowable Subject Matter

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Claims 2-4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nagel et al. (US 2005/0205132) disclose a switch outside the building. Forte (3,426,487) discloses a rain water catchment. Domecki (3,342,136) discloses a well and a holding tank. Corella (5,046,529) discloses a holding tank for potable water and a point of use spigot. Gaynier (US 2003/0131887) discloses a sump in the basement for collecting rainwater and disposing it to a drainage area.

Zimmerman et al. (US 2004/0040598) disclose storing rain in multiple tanks.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig M. Schneider whose telephone number is (571) 272-3607. The examiner can normally be reached on M-F 8:30 -5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hepperle can be reached on (571) 272-4913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CMS *CMS*
January 9, 2006


STEPHEN M. HEPPERLE
PRIMARY EXAMINER
ART UNIT 347